

## AN ACT

ENTITLED, An Act to provide for the mandatory withdrawal of blood or other bodily substances subsequent to arrest for driving while under influence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-23-10 be amended to read as follows:

32-23-10. Any person who operates any vehicle in this state is considered to have given consent to the withdrawal of blood or other bodily substance and chemical analysis of the person's blood, breath, or other bodily substance to determine the amount of alcohol in the person's blood and to determine the presence of marijuana or any controlled drug or substance or any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15 or any other substance that may render a person incapable of safely driving. The arresting law enforcement officer may, subsequent to the arrest of any operator for a violation of § 32-23-1, require the operator to submit to the withdrawal of blood or other bodily substances as evidence.

Section 2. That § 32-23-15 be amended to read as follows:

32-23-15. Any person tested pursuant to §§ 32-23-10 and 32-23-14 shall be permitted to have a physician, laboratory technician, registered nurse, physician's assistant, or medical technologist of the person's own choosing administer the chemical analysis in addition to the one administered at the direction of the law enforcement officer.

Section 3. That § 32-23-16 be amended to read as follows:

32-23-16. Upon the request of any person who was tested pursuant to §§ 32-23-10 and 32-23-14, or upon the request of the person's attorney, the results of such analysis shall be made available to the person or to the person's attorney.

Section 4. That § 32-23-14 be amended to read as follows:

32-23-14. Only a physician, laboratory technician, registered nurse, physician's assistant, phlebotomist, expanded role licensed practical nurse, medical technician, or medical technologist may withdraw blood for the purpose of determining the alcoholic content therein. This limitation does not apply to the taking of a breath or other bodily substance specimen. Such authorized persons, acting on the presumption of consent in § 32-23-10, and any hospital or facility employing such persons, are not liable and may not be held to pay damages to the party from whom the blood sample is withdrawn, if the withdrawal is administered with usual and ordinary care. No person authorized to withdraw blood under this section may be required or forced to withdraw blood for the purposes outlined in this chapter, unless required pursuant to a written agreement.

An Act to provide for the mandatory withdrawal of blood or other bodily substances subsequent to arrest for driving while under influence.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 1

\_\_\_\_\_  
Secretary of the Senate  
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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 1  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State